

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-903-2024 (O&M)
Date of decision:- 31.07.2024

Desh Bhagat University, Mandi Gobindgarh, District Fatehgarh
Sahib, Punjab.

...Appellant(s)

Versus
Vivek Bhambri and others

...Respondent(s)

LPA-907-2024 (O&M)

Desh Bhagat University, Mandi Gobindgarh, District Fatehgarh
Sahib, Punjab.

...Appellant(s)

Versus
Rajan Manro and others

...Respondent(s)

LPA-928-2024 (O&M)

Desh Bhagat University, Mandi Gobindgarh, District Fatehgarh
Sahib, Punjab.

...Appellant(s)

Versus
Arvind Bhatia and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
 HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Bharat Bhandari, Advocate,
 Mr. Sushil K. Bhardwaj, Advocate,
 for the appellants.

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SHEEL NAGU, C.J. (ORAL)

CM-2212-LPA-2024 in LPA-903-2024
CM-2226-LPA-2024 in LPA-907-2024
CM-2277-LPA-2024 in LPA-928-2024

For the reasons mentioned therein, the delay of 36 days in filing
the appeals is condoned.

The applications stand disposed of.

LPAs-903, 907 & 928-2024

1. This order shall dispose of three appeals filed by the appellant-employer being aggrieved by a common order dated 12.01.2024 passed by the learned Single Judge, whereby the writ petitions were dismissed and the legality and validity of the orders of the Appellate Authority-cum-Additional Labour Commissioner, Punjab as well as the Controlling Authority under the Payment of Gratuity Act, 1972 (in short the 'Act') was upheld.

2. The Controlling Authority as well as the Appellate Authority had directed for payment of gratuity based on the consolidated wages which according to learned counsel for the appellant-employer includes House Rent Allowance, Conveyance Allowance, Medical Allowance and Special Allowance which ought to have been kept out of the definition of 'Basic Wage' under Section 2(s) of the Act.

3. Learned counsel for the appellant-employer by relying upon a decision of the Apex Court in ***The Straw Board Manufacturing Co. Ltd. Vs Its Workmen*** (1977) 2 SCC 329 contends that the term 'Basic Wage', as defined in Section 2(s) of the Act, includes the basic salary and Dearness Allowance and nothing else.

4. It is seen from the record that though the appellant-employer did not raise this objection before the Controlling Authority or the Appellate Authority, but a specific plea was raised in para 4 (k) of the writ petition filed before the learned Single Judge.

5. A bare reading of the order of the learned Single Judge reveals that the said aspect which appears to go to the root of the matter had not been taken into consideration.



6. In view of the above, it is clear that the appellant-employer should avail the remedy of filing review petition(s) before the learned Single Judge.
7. The appeals, without commenting upon the merits of the case, stand disposed of with liberty to the appellant-employer to file review petition(s) before the learned Single Judge which, if filed within a period of 15 days, shall be considered and decided on its/their own merits without being dismissed on limitation alone.
8. All the pending applications, if any, also stand disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

31.07.2024
Amodh Sharma

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No